

# ***SouthEast Telephone***

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July 5, 2002

Marlene H. Dortch, Secretary  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
CY-B402  
Washington, DC 20554

**RE: Comments on BellSouth's authorization under Section 271 to provide In-Region InterLATA Service in the State of Kentucky**

WC Docket No. 02-150

Ms. Dortch:

SouthEast Telephone is a small rural CLEC headquartered in the mountains of Eastern Kentucky. Our primary mission is to provide rural Kentuckians with high quality everyday communications services that exceed their expectations. We have a vested interest in the decision that the FCC must make concerning the authorization of BellSouth's request to provide In-Region InterLATA service in the state of Kentucky since we directly compete with BellSouth.

Pursuant to Section 271(d)(3)(c) of the Communications Act of 1934, as amended ("the Act"), the Commission shall not approve the authorization unless it finds that the requested authorization "is consistent with the public interest, convenience, and necessity." We applaud the FCC for always keeping this public interest obligation in mind, but we ask that you specifically consider the rural consumer as you examine BellSouth's request to enter the long distance market in Kentucky. Specifically, the rural consumers located in the mountainous heartland of our state stand to lose their quest for competitive telephone service if the FCC prematurely grants BellSouth's application. Competition can only be fostered by ensuring a permanent and irreversible opening in all markets—both urban and rural—prior to allowing BellSouth to enter the long distance market.

As evidenced by recent multi-million dollar penalties for non-compliance, BellSouth has not met the necessary requirements of the Act to fully open its markets to competition in other states. BellSouth now claims that the local markets in Kentucky have been opened. However, as set forth below, SouthEast Telephone has specific and concrete examples that demonstrate otherwise. Indeed, SouthEast Telephone submits that a grant of the BellSouth application will not serve the public interest and will serve only to reward BellSouth for anticompetitive behavior, as we know it in the rural market, that contravenes the letter and spirit of the Act.

In the urban areas of Kentucky, there have been modest market opening efforts by BellSouth; unfortunately, in the rural areas, only a very limited amount of competition has evolved from the Act. We certainly understand and agree that the incumbents need the ability to compete on a more level playing field with their competitors; however, a broad-based solution applied equally to all Kentuckians would actually be a death sentence for the small rural companies like our own and would be detrimental to rural consumers. Instead, it only presents our customers with a very limited choice of local service providers. Timing for increased competition in the telecommunication markets may be perfect for the larger urban areas but it is not appropriate for rural areas.

One example of BellSouth's questionable commitment to competition and opening of its local market that is pertinent to SouthEast Telephone is BellSouth's request to intervene in the petition of SouthEast Telephone to be designated as an Eligible Telecommunications Carrier ("ETC") in the state of Kentucky. We are not sure of BellSouth's intentions, but we assume that BellSouth will seek to prevent the designation. This would not be a positive step for our company and could potentially mean a long and expensive uphill battle. SouthEast Telephone does not believe that BellSouth has truly opened their local rural markets to competition, especially since no CLECs to date have obtained ETC status in the state of Kentucky. Without the ETC designation, Universal Service Funding is not available for companies like ours to compete with the established ILECs, many of whom are receiving USF funding. CLECs should have the opportunity to draw upon and use these government subsidies on an equal basis with the ILECs so that competition can bring competitive benefits to all consumers, including the ones who live in the rural areas.

Another legal tactic employed by BellSouth in an effort to delay competition was its unwillingness to reach an interconnection agreement for UNE-P services with SouthEast Telephone. The terms of the agreement took over one year to negotiate and ended up as a PSC case, with all issues being settled by the PSC in the favor of SouthEast Telephone. Even though we eventually won on all points, the one year delay cost our company a large sum of money in legal fees plus the profits that would have been attained in that year. Legal tactics such as this one, which delay competition, show that BellSouth is resistant to opening all local markets and uses every legal method at their disposal to prevent competition.

It appears that SouthEast Telephone runs into problems dealing with BellSouth more often than CLECs competing in the larger cities, as demonstrated by the attached summary. (Customer's name and telephone number have been blacked out on the spreadsheets to maintain customer privacy and confidentiality; however, upon request, this information will be made available to the FCC staff for verification purposes.) BellSouth repeatedly missed commitment times, disconnected services on wrong dates, clarified orders in error, completed orders incorrectly, programmed features in the switch incorrectly, provided unacceptable due dates, failed to dispatch technicians when required, etc. The attached summary sets forth these errors in detail. Most of these issues required several days for BellSouth to resolve, with our Customer Service Representatives (CSRs) being required to make repeated calls in an effort to clear the majority of the problems. All of these lengthy (and unnecessary) efforts by our

employees cause an inefficiency in our company and place additional pressure on our local service department CSRs as they have to explain the delays to the customers while attempting to maintain goodwill.

Again, we reiterate that the urban areas and the rural areas of Kentucky cannot be regulated under a single policy. The Golden Triangle (26 counties including Lexington, Louisville, and the northern Kentucky area) only comprise approximately 15.5% of the square mileage of Kentucky, yet it accounts for more than 41% of the population base. We wish to make clear that the urban areas and the rural areas cannot be regulated under the same policy.

SouthEast Telephone believes that in addressing BellSouth's request for Section 271 authorization in the state of Kentucky, the FCC should carefully consider all points of view, both urban and rural, and deny the request of BellSouth until rural markets are open to competition on the same level as the urban markets. Our company appreciates your recognition of the importance of this decision and the need to give it your full and complete consideration. Our staff and management is available to answer any questions that might facilitate your decision.

Sincerely,

Darrell Maynard  
President